



सरकारी गजट, उत्तराखण्ड

उत्तराखण्ड सरकार द्वारा प्रकाशित

रुडकी

खण्ड-10] रुडकी, शनिवार, दिनांक 19 सितम्बर, 2009 ई० (भाद्रपद 28, 1931 शक सम्वत्) [संख्या-38

विषय-सूची

प्रत्येक भाग के पृष्ठ अलग-अलग दिये गए हैं, जिससे उनके अलग-अलग खण्ड बन सकें

विषय	पृष्ठ संख्या	वार्षिक चन्द्रा
सम्पूर्ण गजट का मूल्य		रु० 3075
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भाग 3—स्वायत्त शासन विभाग का क्रोड़-पत्र, नगर प्रशासन, नोटीफाइड एरिया, टाउन एरिया एवं निर्वाचन (स्थानीय निकाय) तथा पंचायतीराज आदि के निदेश जिन्हें विभिन्न आयुक्तों अथवा जिलाधिकारियों ने जारी किया	—	975
भाग 4—निदेशक, शिक्षा विभाग, उत्तराखण्ड	—	975
भाग 5—एकाउन्टेन्ट जनरल, उत्तराखण्ड	—	975
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भाग 7—इलेक्शन कमीशन ऑफ इण्डिया की अनुविहित तथा अन्य निर्वाचन सम्बन्धी विज्ञप्तियां	—	975
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भाग 1

विज्ञप्ति-अवकाश, नियुक्ति, स्थान-नियुक्ति, स्थानान्तरण, अधिकार और दूसरे वैयक्तिक नोटिस

वित्त अनुभाग-8

विज्ञप्ति/स्थानान्तरण/समायोजन

28 अगस्त, 2009 ई०

संख्या 439/2009/18(100)/XXVII(8)/09-तात्कालिक प्रभाव से वाणिज्य कर विभाग, उत्तराखण्ड के अन्तर्गत कार्यरत ज्वाइंट कमिश्नर स्तर के अधिकारियों का एतद्वारा निम्नानुसार स्थानान्तरण/समायोजन किया जाता है :-

अधिकारी का नाम	वर्तमान तैनाती	स्थानान्तरित/समायोजित पद/स्थान का नाम
1. श्री हनुमान सिंह नबियाल	ज्वाइंट कमिश्नर (कार्य०) वाणिज्य कर, काशीपुर सम्भाग, काशीपुर	ज्वाइंट कमिश्नर (अपील)-प्रथम, वाणिज्य कर, उत्तराखण्ड मुख्यालय, हल्द्वानी।
2. श्री एन०सी० शर्मा	ज्वाइंट कमिश्नर (अपील)-द्वितीय, वाणिज्य कर, उत्तराखण्ड मुख्यालय, देहरादून एवं अतिरिक्त प्रभार ज्वाइंट कमिश्नर, (अपील)-प्रथम, वाणि० कर, उत्तराखण्ड मुख्यालय, हल्द्वानी	ज्वाइंट कमिश्नर (अपील)-द्वितीय, वाणिज्य कर, उत्तराखण्ड मुख्यालय, देहरादून।

2-शासन के अग्रिम आदेशों तक श्री प्रदीप श्रीवास्तव, एडिशनल कमिश्नर, वाणिज्य कर, कुमाऊँ जोन, रुद्रपुर वर्तमान दायित्वों के साथ ज्वाइंट कमिश्नर (कार्य०) वाणि० कर, काशीपुर सम्भाग, काशीपुर का अतिरिक्त प्रभार भी देखेंगे।

3-अतिरिक्त कार्य भार के लिये सम्बन्धित अधिकारियों को पृथक से कोई वेतन/भत्ते आदि देय नहीं होंगे।

उपर्युक्तानुसार स्थानान्तरित/समायोजित अधिकारी तत्काल अपनी नई तैनाती के स्थान पर कार्यभार ग्रहण करना सुनिश्चित करेंगे।

आलोक कुमार जैन,
प्रमुख सचिव।

पंजीकृत संख्या-यू0ए0/डी0ओ0/डी0डी0एन0/30/2009-11

(लाइसेन्स टू पोस्ट विदाउट प्रीपेमेंट)



सरकारी गजट, उत्तराखण्ड

उत्तराखण्ड सरकार द्वारा प्रकाशित

रुड़की, शनिवार, दिनांक 19 सितम्बर, 2009 ई0 (भाद्रपद 28, 1931 शक सम्वत्)

भाग 1-क

नियम, कार्य-विधियां, आज्ञाएं, विज्ञप्तियां इत्यादि जिनको उत्तराखण्ड के राज्यपाल महोदय, विभिन्न विभागों के अध्यक्ष तथा राजस्व परिषद् ने जारी किया

HIGH COURT OF UTTARAKHAND, NAINITAL

NOTIFICATION

August 27, 2009

THE UTTARAKHAND CASE FLOW MANAGEMENT

(FOR HIGH COURT) RULES, 2009

No. 155/UHC/Admin.B--In exercise of the powers conferred by Article 225 of the Constitution of India and all other power enabling it in that behalf, the High Court of Uttarakhand hereby makes the following rules :-

1. Title, application and commencement :

- (1) These rules may be called the Uttarakhand Case Flow Management (for High Court) rules, 2009.
- (2) These rules shall apply to all writs, appeals and all other civil, criminal and other proceedings before the High Court.
- (3) These rules shall come into force from the date of their publication in the Official Gazette.

2. Definitions : In these rules, unless the context otherwise requires--

- (1) High Court means the High Court of Uttarakhand.
- (2) Government means the Government of the State of Uttarakhand.
- (3) Code means the code of Civil procedure 1908 (Act No. 5 of 1908).

3. Division of cases into different Tracks :

- (1) **Writ Petitions--**The High Court shall, at the stage of admission or issuing notice before admission categories the Writ Petitions other than the Writ of Habeas Corpus, into three categories :

(i) **Fast Track--**The petitions in the Fast Track shall invariably be disposed of within a period not exceeding six months.

(ii) **Normal Track--**The petitions in the Normal Track should not take longer than a year.

(iii) **Slow Track--**The petitions in the Slow Track, like Public Interest Litigations subject to the pendency of other cases in the Court, should ordinarily be disposed of within a period of two years.

Note— Where an interim order of stay or injunction is granted in respect of liability to tax or demolition or eviction from public premises etc. shall be put on the fast track. Similarly, all matters involving tenders would also be put on the Fast Track. These matters cannot brook delays in disposal.

- (2) Registrar (Judicial) or other senior officer of the High Court, nominated for the purpose, shall at intervals of every month, monitor the stage of each case likely to come up for hearing before each Bench (Division Bench or Single Judge) during that month which have been allocated to the different tracks. The details shall be placed before the Chief Justice or Committee nominated for that purpose as well as the concerned Judge dealing with cases.
- (3) **The Judge or Judges** referred to in Clause (2) above may shift the case from one track to another, depending upon the complexity, (urgency) and other circumstances of the case.
- (4) **The data** will be fed into the computer in such a manner that the court or judge or judges, referred to in Clause (2) above will be able to ascertain the position and stage of every case in every track from the computer screen.
- (5) **Whenever** the roster changes, the judge concerned who is dealing with final matters shall keep himself informed about the stage of the cases in various tracks listed before him during every week, with a view to see that the cases are taken up early.
- (6) **Other matters--**The High Court shall also divide Civil Appeals and other matters in the High Court into different tracks on the lines indicated in sub-clauses (2) to (5) above and the said clauses shall apply, *mutatis mutandis*, to the civil appeals filed in the High Court. The High Court shall make a subject-wise division of the appeals/revision application for allocation into different tracks.

4. **Writ of Habeas Corpus :**

(1) **Writ of Habeas Corpus against Government :**

- (i) Notices in respect of Writ of Habeas Corpus where the person is in custody under orders of a State Government or Central Government shall invariably be issued by the Court at the first listing and shall be made returnable within 48 hours.
- (ii) The State Government or Central Government may file a brief return enclosing the relevant documents to justify the detention.

(2) **Writ of Habeas Corpus against private person--**

- (i) Notices in respect of Writ of Habeas Corpus where the person is in custody of private person/s shall invariably be issued by the Court at the first listing and shall be made returnable within 72 hours.
- (ii) The Person may file a brief return enclosing the relevant documents to justify the detention.
- (3) Normally the matter shall be listed after notice on the fourth working day (if that day is holiday next day) after issuance of notice, and the Court shall consider whether a more detailed return to the Writ is necessary, and, if so required, shall give further time of ten days for response.
- (4) A Writ of Habeas Corpus shall invariably be disposed of within a period of one month. It shall have preference over and above fast-track cases.

5. **Mode of Advance Service--**The Court rules will provide for mode of service of notice on the standing counsel for Respondents wherever available, against whom, interim orders are sought. Such advance service shall generally relate to Governments or public sector undertakings who have Standing Counsel.

6. **First Appeals to High Court--**(1) First Appeal being appeals on questions of fact and law, Courts are generally inclined to admit the appeal and it is only in exceptional cases that the appeal is rejected under Order XLI Rule 11 at the admission stage.

- (i) In view of the amended Code, a copy of the appeal is required to be filed in the Trial Court. But a party can file the appeal in the Appellate Court (High Court) immediately for obtaining interim orders.
- (ii) In addition to the process for normal service as per the Code, advance notice should simultaneously be given by the counsel for the party who is proposing to file the appeal, to the counsel for the opposite party in the Trial Court itself so as to enable them to inform the parties to appear if they so choose even at the first hearing stage.

- (2) **Filing of Documents**--The Appellant shall, on the appeal being admitted, file all the essential papers within such period as may be fixed by the High Court for the purpose the High Court understanding the scope of the dispute and for the purpose of passing interlocutory orders.
- (3) **Printing or typing of Paper Book**--Printing and preparation of paper-books by the High Court should be done away with. After service of notice is effected, counsel for both sides should agree on the list of documents and evidence to be printed or typed and the same shall be made ready by the parties within the time to be fixed by the Court. Thereafter the paper book shall be got ready. It must be assured that the paper books are ready at least one month in advance before the appeal is taken up for arguments. (Cause lists must specify if paper books have been filed or not).
- (4) **Filing of written Submissions and time for oral argumetns**--
 - (i) Both the appellants and the respondents shall be required to submit their written submissions with all the relevant pages as per the Court paper-book marked therein within 15 days of preparation of such paper-books, referred to in para 3 above.
 - (ii) Cause list may indicate if written submissions have been filed.
 - (iii) After the written submissions are filed, (with due service of copy to the other side) the matter should be listed before the Registrar for the parties to indicate the time that will be taken for arguments in the appeal. Alternatively, such matters may be listed before a judge in chambers for deciding the time duration and thereafter to fix a date of hearing on a clear date when the requisite extent of time will be available.
 - (iv) In the event that the matter is likely to take a day or more, the High Court may consider having a Caution List/Alternative List to meet eventualities where a case gets adjourned due to unavoidable reasons or does not go on before a court where, for one reason or another, the scheduled cases are not taken up for hearing.
- (5) **Court may explore possibility of settlement**--
 - (i) At the first hearing of a First Appeal, if it appears to the court that there exists elements of a settlement, the court shall hear the parties in person and if after hearing the parties, the court finds that there is a possibility of a settlement, the court may refer the same for arbitration, conciliation, judicial settlement through the Lok Adalat or mediation, as the case may be.
 - (ii) If necessary, the process contemplated by Section 89 of Code may be resorted to by the Appellate Court so, however, that the hearing of the appeal is not unnecessarily delayed. If so restored, the Court should fix a date for a report on the ADR two months from the date of reference.
7. **Appeals to Division Bench from judgment of Single Judge of High Court**--(1) Should be invariably filed after advance notice to the opposite counsel (who has appeared before the Single Judge) so that both the sides will be represented at the very first hearing of the appeals. If both parties appear at the first hearing, there is no need to serve the opposite side by normal process and at least in some cases, the appeals against interlocutory orders can be disposed of even at the first hearing. If, for any reason, this is not practicable, such appeals against interim orders should be disposed of within a period of a month.
 - (2) In cases referred to above, necessary documents should be kept by the counsel to enable the Court to dispose of the appeal gainst interlocutory matter at the first hearing itself.
 - (3) In all Appeals against interim orders in the High Court, in writs and civil matters, the Court should endeavour to set down and observe a strict time limit in regard to oral arguments. In case of Orginal Side Appeals arising out of final orders in a Writ Petition or arising out of civil suits filed in the High Court, a flexible time schedule may be followed.
 - (4) Before Writ Appeals against final orders in Writ Petitions are heard, brief written submissions must be filed by both parties within such time as may be fixed by the Court.
8. **Second Appeals :**
 - (1) Even at the stage of admission, the questions of law with a brief synopsis and written submission on each of the propositions should be filed so as to enable the Court to consider whether there is a substantial question of law.

- (2) Wherever the Court is inclined to entertain the appeal, apart from normal procedure for service as per rules, advance notice shall be given to the Counsel who had appeared in the first Appellate Court.
- (3) The notice should require the respondents to file their written submissions within a period of eight weeks from service of notice.
- (4) Efforts should be made to complete the hearing of the Second Appeals within a period of six months.
9. **Revision**--The practice direction in regard to First Appeals to the High Courts, should *mutatis mutandis* apply in respect of revision petitions.
10. **Criminal Appeals**--(1) Criminal Appeals should be channeled based on offence, sentence and whether the accused is on bail or in jail into following tracks :--
 - Track I**--Capital punishment cases, rape, sexual offences, dowry death cases.
 - Track II**--Other cases where the accused is not granted bail and is in jail.
 - Track III**--Cases, which affect a large number of persons such as cases of mass cheating, economic offences, illicit liquor tragedy, food adulteration cases, offences of sensitive nature.
 - Track IV**--Offences which are tried by special courts such as NDPS, Prevention of Corruption Act, etc.
 - Track V**--All other offences.
- (2) The endeavour should be to complete--
 - Track I cases** within a period of six months,
 - Track II cases** within one year,
 - Track III** within one and half year,
 - Track IV and Track V** within two years.
- (3) Wherever an appeal is filed by a person in jail, and also when appeals are filed by State, the complete paper-books including the evidence, should be filed by the State within such period as may be fixed by Court.
- (4) In appeals against acquittals, steps for appointment of amicus curie or State Legal Aid counsel in respect of the accused who do not have a lawyer of their own should be undertaken by the Registry/(State Legal Services Authority) immediately after completion of four weeks of service of notice. It shall be presumed that in such an event the accused is not in a position to appoint counsel, and within two weeks thereafter counsel shall be appointed and shall be furnished all the papers.
11. **Note:** Wherever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 or the Rules of the Court 1952, or any other statute, the provisions of such Codes, rules and statute shall prevail.

NOTIFICATION

August 27, 2009

THE UTTARAKHAND CASE FLOW MANAGEMENT (FOR SUBORDINATE COURTS) RULES, 2009

No. 156/UHC/Admn.B--In exercise of the powers conferred by Article 227 of the Constitution of India, and all other powers enabling it in that behalf, the High Court of Uttarakhand hereby makes the following rules.

1. **Title, application and commencement :**

- (i) These rules may be called the Uttarakhand Case Flow Management (for subordinate courts) Rules, 2009.
- (ii) These rules shall apply to all suits, Civil and Criminal Proceedings before the subordinate Civil Courts/ Judge Small Cause Courts, Family Courts, Criminal Courts under the control of High Court of Uttarakhand.
- (iii) These Rules shall come into force from the date of their publication in the Official Gazette.

2. **Definitions :** In these rules, unless the context otherwise requires--

- (i) High Court means the High Court of Uttarakhand.
- (ii) Government means the Government of the State of Uttarakhand.
- (iii) Code means the code of Civil procedure 1908, (Act No. 5 of 1908).

(iv) Subordinate Court means a court under the Administrative control of the High Court.

(v) Presiding Officer means the Judge who presides over the court.

(vi) Ministerial Officer includes the Sadar Munsarim/Munsarim/Reader/Clerk of Civil Court, Judge Small Causes Court, Family Court, Criminal Court or any other subordinate court.

3. Categorisation of suits/Cases/Appeals/Revisions and other proceedings into Tracks: (1) The Presiding Officer of the court shall categorise the suits/cases and proceedings in his Court into Track-I, Track-II and Track-III based on the nature of dispute, the quantum of evidence to be recorded and the time likely to be taken for the completion of trial of the suit, the suits shall be channeled into different tracks.

(i) **Track-I :** Cases relating to (1) Matrimonial matters (2) maintenance (3) custody of children (4) appointment of guardian and wards (5) visitation rights (6) grant of letters of administration (7) succession certificate (8) Small Cause Suits (9) Rent Control Appeals (10) revisions (11) miscellaneous cases (12) election petitions (13) Motor Accident Claims Petitions (14) money suits based solely on pronotes/negotiable instruments (15) execution cases (16) miscellaneous appeals.

(ii) **Track-II :** (1) Original suits (other than mentioned in Track-I) (2) Suits for trademarks, copyrights, patents and intellectual property rights (3) Land Acquisition References.

(iii) **Track-III :** Such other cases not included in Track-I to II shall be posted in Track-III.

(2) The Presiding Officer shall endeavor to dispose of cases in Track-I within one year and the cases in track-II & III within two years from the date of appearance or deemed appearance of defendant-respondent-opposite party.

Note--For the period court remained vacant or proceeding remained stayed under the orders of superior court shall not be taken into account for calculating maximum period.

(i) Where statute requires that suits/proceedings have to be completed within a specified period then the above mentioned period for deciding the suits shall not apply, and the Court shall decide the suit within the given statutory period. Time limit fixed for various stages of civil suits as per Code of Civil Procedure shall be adhered to.

(ii) **Appeals/Revisions--**

Appeals/revisions arising out of a track I shall be decided within six months. All other appeals/revisions shall be decided within one year. Notice shall be issued to the counsel who appears for the respondent in the Trial Court in view of Order 41 Rule 14 C.P.C.

(3) The Presiding Officer shall at intervals of every month monitor the stage of each case allotted to the different Tracks and take appropriate decision with a view to ensure that the cases are disposed of within the period fixed for each Track. The District Judge shall also discuss the above matter in the Monthly Meeting with the Presiding Officers to ensure the compliance of these rules.

(4) Once in a month, the administrative staff of each court will prepare a report as to the stage and progress of cases, which are proposed to be listed in next month and place the report before the Presiding Officer of the Court. When the matters are listed on each day, the Presiding Officer concerned may at the time of hearing of the case, take such decision as he may deem fit, in regard to each case for removing any obstacle in service of summons, completion of pleadings etc. with a view to make the case ready for disposal.

(5) The Presiding Officer of each court may shift a case from one track to another, depending upon the complexity and other circumstances of the case.

(6) Where computerization is available, the monthly data will be fed into the computer in such a manner that the Presiding Officer of each court will be able to ascertain the position and the stage of every case in every track from the computer screen. Over a period, all cases pending in his court will be covered. Where computerization is not available, the monitoring may be done manually.

(7) The Presiding Officer of each court shall monitor and control the flow or progress of every case, either from the computer or from the register or data placed before him in the above manner or in some other manner he may innovate.

- 4. Service of Summons/Notices and completion of pleadings :** (1) The summons/notices issued in suit or proceedings shall indicate maximum of 30 days for filing written statement/objection from the date of service (which for special reasons to be recorded in writing may be extended upto 90 days).
- (2) (i) The plaintiff/petitioner shall file copy of the plaint, interlocutory application (if filed), list of documents along with the plaint for service on the defendant-respondent-opposite party.
- (ii) The plaintiff/petitioner shall furnish the correct postal address of the parties in the pleadings as required under rule 14A of Order VI, in the absence of the same the office shall not take further steps until necessary compliance is made.
- (iii) The copies of written statement or reply, together with all annexure shall be served in advance on the plaintiff.
- (iv) The procedure indicated in clauses (i) to (iii) shall apply to all interlocutory applications as well.
- (3) When the service of notice is issued to the plaintiff/petitioner under Order V rule 9(A), the report of the service shall be filed before the Court with necessary acknowledgement of service along with affidavit.
- (4) If the service of summons/notice through courier in the panel of court is refused, the serving agent of the courier may swear an affidavit of the fact of refusal. On consideration of such affidavit, the Court may treat the service sufficient and proceed further.
- (5) The envelope of the Summons/Notice sent by Registered Post or Courier shall bear written or printed instructions to the server to deliver summons or notice to the party and in his absence, to any adult member of the family. The acknowledgement of service shall be submitted to the Court.
- (6) The party lodging caveat under Section 148A, shall furnish in the petition, the registered address for service of summons or notice and the name and address of the Advocate on whom the copy of the summons/notice is to be served.
- 5. Procedure on grant of interim orders--**(1) If an interim order is granted at the first hearing by the Court, the defendants would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it may be listed even before the returnable date.
- (2) If the Court passes an ad-interim ex-parte order in an interlocutory application, and the reply by the defendants is filed, the Court has to consider whether the stay or interim order passed by the Court should be vacated and shall list the case with that purpose. This is meant to prevent parties taking adjournments with a view to have undue benefit of the ad interim orders.
- 6. Referral to Alternate Dispute Resolution:** (1) In the hearing before the Court, after completion of pleadings, time limit for discovery and inspection, and admission and denials, of documents may be fixed, preferably restricted to 2 weeks each.
- (2) After the completion of admission and denial of documents by the parties, the suit shall be listed before the Court (for examination of parties under Order X of the Civil Procedure Code. A joint statement of admitted facts, if any, shall be filed before the said date). The Court shall thereafter, follow the procedure prescribed under the Civil Procedure Alternative Dispute Resolution Rules, 2007 or under the Civil Procedure Mediation Rules, 2007 as the case may be.
- 7. Procedure on the failure of Alternative Dispute Resolution:** (1) On the filing of report by the Mediator under the Mediation Rules that efforts at Mediation have failed, or a report by the Conciliator under the provisions of the Arbitration and Conciliation Act, 1996, or a report of no settlement in the Lok Adalat under the provisions of the Legal Services Authority Act, 1987, the suit shall be listed before the Court within a period of 14 days. At the said hearing before the Court, all the parties may submit the draft issues proposed by them. The suit shall be listed before the Court within 14 days thereafter for framing of issues.
- (2) When the suit is listed after failure of the attempts at conciliation, arbitration or Lok Adalat, the judge may merely inquire whether it is still possible for the parties to resolve the dispute. This should invariably be done by the Judge at the first hearing when the matter comes back on failure of conciliation, mediation or Lok Adalat.

- (3) If the parties are not keen about settlement, the Court shall frame the issues and direct the plaintiff to start examining his witnesses. The possibility of further negotiation and settlement should be kept open and if such a settlement takes place, it should be open to the parties to move the Court for getting the matter listed at an earlier date for disposal.

8. Appointment of Commissioners for recording of evidence and the procedures : (1) The District Judge shall select a panel of Advocates as Commissioners for recording evidence, for the Courts in Districts and Tehsils.

- (2) It is not necessary that the Court should appoint a Commissioner for recording evidence in every case. Only if the recording of evidence is likely to take a long time or there are any other special grounds, should the Court consider appointing a Commissioner for recording evidence and direct that the matter be listed for further orders fifteen days after the Commissioner files his report with the evidence. The Court may initially fix a period for the completion of the recording of the evidence by the Commissioner and direct the matter to be listed on the date of expiry of the period so that the Court may know whether the parties are cooperating with the Commissioner and whether the recording of evidence is getting unnecessary prolonged.

- (3) The Court shall appoint an Advocate on the panel, for recording evidence on Commission.

- (4) The Court shall determine the remuneration of the Commissioner and the incidental charges.

- (5) Until the panel of Commissioners is published by the District Judge, the Court may appoint a Commissioner in accordance with provisions of Order XXVI.

- (6) The Commissioner shall intimate the court the date, time and place when he intends to record the evidence and on that date the Presiding Officer shall direct one or more official (as the case may be) of the court to take the record of the case, necessary for recording the evidence, at the given date, time and place.

- (7) The Official(s) shall ensure safe custody of the case file and documents delivered to his custody.

9. Costs : So far as awarding of costs at the time of judgement is concerned, awarding of costs must be treated generally as mandatory in as much as the liberal attitude of the Courts in directing the parties to bear their own costs had led parties to file a number of frivolous cases in the Courts or to raise frivolous and unnecessary issues. Costs should invariably follow the event. Where a party succeeds ultimately on one issue or point but loses on number of other issues or points, which were unnecessarily raised, costs must be appropriately apportioned. Reasons must be assigned for making costs easy. Costs should be assessed according to rule in force. If any of the parties has unreasonably protracted the proceedings, the Judge should consider exercising discretion to impose exemplary costs after taking into account the expense incurred for the purpose of attendance on the adjourned dates.

10. Proceedings for Perjury : When the Presiding Officer while pronouncing the judgement expresses in the judgement that the party/witness has willfully given false evidence, he shall consider, at least in grave cases whether prosecution should be initiated for Perjury and order prosecution accordingly.

11. Adjournment : The amendments to the Code have restricted the number of adjournments to three in the course of hearing of the suit, on reasonable cause being shown. When a suit is listed before a Court and any party seeks adjournment, the Court shall have to verify whether the party is seeking adjournment due to circumstances beyond the control of the party, as required by clause (b) of provision to Rule 2 of Order XVII. The Court shall impose costs as specified in Rule 2 of Order XVII.

12. Miscellaneous Applications : The proceedings in a suit shall not be stayed on the filing of any Miscellaneous Applications in the course of suit unless the court in its discretion expressly stays the proceedings in the suit.

13. First Appeals to Appellate (Subordinate) Courts :

(1) **Service of Notice of Appeal--**First Appeal being appeals on questions of fact and law, Courts are generally inclined to admit the appeal and it is only in exceptional cases that the appeal is rejected under Order XLI Rule 11 at the admission stage.

- (i) In view of the amended Code, a copy of the appeal is required to be filed in the trial Court. But a party can file the appeal in the Appellate Court immediately for obtaining interim orders.

- (ii) In addition to the process for normal service as per the Code, advance notice should simultaneously be given by the counsel for the party who is proposing to file the appeal, to the counsel for the opposite party in the Trial Court itself so as to enable them to inform the parties to appear if they so choose even at the first hearing stage.
- (2) **Filing of Documents**--The Appellant shall, on the appeal being admitted, file all the essential papers within such period as may be fixed by the Appellate Court for the purpose the Appellate Court understanding the scope of the dispute and for the purpose of passing interlocutory orders.
- (3) **Fixation of time limits in interlocutory matters**--Whenever notice is issued by the Appellate Court in interlocutory matters, the notice should indicate the date by which the reply should be filed. The rejoinder, if any, should be filed within four weeks of receipt of the reply. If there are more parties than one who are Respondents, each one of the Respondent should comply with this requirement within the time limit and the rejoinder, if any, may be filed within two weeks from the receipt of the last reply.
- (4) **Procedure on grant of interim-orders**--(i) If an interim order is granted at the first hearing by the Court, the Respondents would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it shall be listed as soon as possible even before the returnable date.
- (ii) If the Court passes an ad-interim ex-parte order, and if the reply is filed by the Respondents and if, without good reason, the appellant fails to file the rejoinder, court shall consider whether it is a fit case for vacating the stay or interim order and list the case for that purpose. This is intended to see that those who have obtained ad-interim orders do not procrastinate in filing replies.
- (5) **Filing of Written Submissions**--Both the appellants and the respondents shall be required to submit their written submissions one week before the commencement of the arguments in the appeal. The cause-list should indicate if written submissions have been filed or not. Each party must serve a copy thereof on the opposite side before the date of commencement of arguments. There is no question of parties filing replies to each other's written submissions.
- (6) **Costs**--Awarding of costs must be treated generally as mandatory in as much as it is the liberal attitude if the Costs in not awarding costs that has led to frivolous appeals being filed in the costs. Costs should invariably follow the event and reasons must be assigned by the appellate Court for not awarding costs. If any of the parties have unreasonably protracted the proceedings, the Judge shall have the discretion to impose exemplary costs after taking into account the costs that may have been imposed at the time of adjournments.
14. **Application/Petition under Special Acts**--The Practice direction in regard to Original Suits should *mutatis mutandis* apply in respect of such applications/petitions filed under any Special Acts like the Industrial Disputes Act, Hindu Marriage Act and Indian Succession Act etc.
15. **Criminal Trials and Criminal Appeals to Subordinate Courts :**
- (1) **Criminal Trials**--Criminal Trials should be channeled based on gravity of offence, sentence and whether the accused is on bail or in jail in different tracks.
- (2) **Sessions Trials and Special Trials :**
- (i) **Track-I** : Capital punishment, Rape and cases involving sexual offences or dowry deaths.
- (ii) **Track-II** : Other cases where the accused is not granted bail or in jail-undertrial cases.
- (iii) **Track-III** : Cases which affect a large number of persons such as cases of mass cheating, economic offences, illicit liquor tragedy and food adulteration cases, offences of sensitive nature etc.
- (iv) **Track-IV** : Offences, which are tried by special courts such as NDPS, Prevention of Corruption Act, etc.
- (v) **Track-V** : All other offences.
- (3) The endeavour should be to complete Track-I cases within a period of one year, Track-II and Track-III cases within eighteen months and Track-IV & V within 15 months from the date of submission of the charge sheet in the court.

- (4) **Criminal Appeals--**(i) Wherever an appeal is filed by a person in jail, and also when appeals are filed by State, as far as possible, the memorandum appeal may be accompanied by important documents, if any, having a bearing on the question of bail.
- (ii) In respect of appeals filed against acquittals, steps for appointment of amicus curie or State Legal Aid counsel in respect of the accused who do not have a lawyer of their own choice should be undertaken by the Presiding Officer/(State Legal Services Authority).
- (iii) Advance notice should simultaneously be given by the counsel for the party who is proposing to file the appeal, to the counsel for the opposite party in the subordinate Court, so as to enable the other party to appear if they so choose even at the first hearing stage.
- 16. Note--**Whenever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure 1973 or General Rules (Civil) 1957, General Rules (Criminal) 1977 or any other Statutes, the provisions of such Codes, Rules and Statutes shall prevail.

NOTIFICATION

August 27, 2009

THE UTTARAKHAND HIGH COURT RIGHT TO INFORMATION RULES, 2009

No. 157/UHC/Admn.B--In exercise of the powers conferred under section 28(1) of the Right to Information Act, 2005, and all enabling provisions in that behalf, the Chief Justice of Uttarakhand High Court at Nainital makes the following Rules for carrying out the provisions of the Right to Information Act, 2005.

1. Short Title commencement and application :

- (i) These rules shall be called the Uttarakhand High Court Right to information Rules, 2009.
- (ii) They shall come into force with effect from the date of publication in the Official Gazette.
- (iii) These Rules shall be applicable to the High Court of Uttarakhand and all the subordinate courts under its administrative control.

2. Definitions : In these Rules, unless the context otherwise requires :

- (a) 'Act' means the Right to Information Act, 2005.
- (b) 'Chief Justice' means the Chief Justice of the High Court of Uttarakhand.
- (c) 'State Public Information Officer' means such Officer or Authority of the High Court as would be designated by the Chief Justice by a separate order.
- (d) 'State Assistant Public Information Officer' means the Senior Administrative Officer/Sadar Munsarim/ Munsarim as the case may be as designated by the Chief Justice under Section 5(2) of the Act.
- (e) 'Subordinate Courts' means and includes all Civil, Criminal and other courts in the State of Uttarakhand, which are subordinate to, or under the control and supervision of the Chief Justice.

3. Request for furnishing information :

Any request for obtaining information shall be made in the prescribed form accompanied with a fee of Rs. 10/- paid by way of adhesive Court fee stamps and the complete address of the applicant for communication. The application for information shall be submitted to the State Public Information Officer or the State Assistant Public Information Officer, as the case may be in the normal office working hours.

4. Request for inspection of record :

Application for inspection of the record shall be made in the prescribed form. The fee for inspection of documents or records shall be Rs. 20/- per document for one hour or part of an hour by way of adhesive court fee stamp.

5. Procedure regarding inspection of documents :

The applicant shall not cause any hindrance to the office work and shall cooperate with the staff and complete the inspection as soon as possible.

The Public Information Officer concerned shall have the right to fix the time and date of the inspection according to administrative convenience and his decision shall be final.

6. Information shall not be provided in the form of certified copies :

Information shall be provided in question answer form and it shall not be provided in the form of certified copies/Xerox copies.

These rules shall not apply for obtaining copies and information regarding the judicial record and provisions of supplying certified copies under any other rule.

7. Register to be maintained :

The State Public Information Officer/State Assistant Public Information Officer shall maintain a register in the format as per the appendix and other records as would required from time to time.

8. Appeal :

Such Authority or Officer as may be designated by the Chief Justice by a separate order shall be the Officer to whom an appeal can be preferred under section 19(1) of the Act, against the order passed by the State Public Information Officer.

Appeal under section 19(1) of the Act, shall be preferred against the order passed by the State Assistant Public Information Officer before the Chief Judicial Magistrate or any other judicial officer nominated by the Chief Justice, of the concerned Judgeship.

Appendix

Register of Information

Sl. No.	Date of application	Name and address of the party	Purpose of request	Fee paid	Date & time of requisition of record	Date & time of information furnished or inspection made	Date and time of return of record	Signature of the applicant	Remarks
1	2	3	4	5	6	7	8	9	10

Application Form for Inspection of record

Court fee stamp

To

The State Public Information Officer/State Assistant
Public Information Officer

Please grant me permission to inspect the documents named in the following list, for which I tender herewith the requisite stamp of Rs.

Full description of document of which the inspection is wanted	Name of the Office or officer/official in whose possession the document is lying	Object for which inspection is required or ground upon which the application should be granted
--	--	--

Dated :

Signature and Full address
of the applicant.

Form of Application for Information

To

The State Public Information Officer/
The State Public Assistant Information Officer

Please furnish the following information for which the requisite fees of Rs. is being paid :

Full particular of the Department/Section to which the document is concerned regarding which the information is required	Full particular of the document or record regarding which the information sought	Object for which the information is required
--	--	--

Dated :

Signature and Full address
of the Applicant.

Brief description of information
sought

Information furnished

Dated :

Signature of the State Public
Information Officer.

Seal

By Order of the Court,

Sd/-

RAVINDRA MAITHANI,
Registrar General.